

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/767,825 Confirmation No. 5605
Applicant : Ward *et al.*
Filing or § 371 date : 29 JAN 2004
TC/A.U. : 3736
Office Action : J. M. Foreman
Docket No. : FAK-101
Customer No. : 62,479

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

This is in response to the Official Action bearing a mail date of August 15, 2008. This response is timely filed with a one month extension and the necessary fee. In view of the following remarks, the Restriction is respectfully requested withdrawn.

SUMMARY OF RESTRICTION REQUIREMENT

The Office Action restricted presently pending Claims 47-67 into Groups I-II where Group I (Claims 47-59) is drawn to a method of determining a presence or absence of tissue oedema and Group II (Claims 60-67) is drawn to an apparatus for determining a presence or absence of tissue oedema. As a basis for restriction, the Office Action alleged that the process (Group I) does not require a current means, a monitoring means that produces a signal characteristic of bioimpedance or an analysis means, as claimed in the apparatus (Group II). The Office Action also alleged a serious search and examination burden.

PROVISIONAL ELECTION

Group I (Claims 47-59) is elected with traverse.

TRAVERSAL

The restriction is traversed because both Groups I and II are by the Office Action's own admission classified within Class 600, subclass 547. Hence, it is not believed that the inventions have acquired separate status thereby requiring a different field of search. Moreover, the independent Claims 47 and 67 share the limitations of a single low frequency alternating current greater than 0 kHz, but no greater than 30 kHz, measurement of bioelectrical impedance, and a second measurement of bioelectrical impedance to obtain a result that is compared with a value for bioelectrical impedance measurements from a plurality of subjects unaffected by tissue oedema to thereby provide an indication of the presence or absence of tissue oedema. Given the shared limitations, it is believed that references searched for either Group would probably be applicable to both sets of claims. Hence, it is requested that the restriction be withdrawn and Groups I-II examined together.

Respectfully submitted,
HAHN & VOIGHT PLLC

/Roger C. Hahn/

HAHN & VOIGHT PLLC
1012 – 14TH Street, N.W.
Washington, D.C. 20005
(202) 637-0020

Attorney for Applicants
Roger C. Hahn
Reg. No. 46,376